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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,649	11/24/2003	Christian Weis	2001P80072WOUS	1173

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EXAMINER

MCANULTY, TIMOTHY P

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,649

Applicant(s)

WEIS, CHRISTIAN

Examiner

Timothy P McAnulty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/24/2003, 3/8/2004, and 4/8/2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/8/04, 4/8/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the drive directly driving the wheel as claimed in claim 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The abstract of the disclosure is objected to because it contains legal phraseology. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 2, 5, and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 2 and 5, the specification establishes that the actuating drive 12 “is a commercially available electric motor.” See lines 17-18 of page 5 of the specification. As claimed in claim 2, the actuating drive “directly drives” the wheel. It is not understood how the actuating drive “directly drives” the wheel, especially when the actuating drive is disclosed to drive the wheel through the shaft 16 and the worm gear 18. The structure and operation of an actuating device that “directly drives” the wheel is not described in the specification to be enabling to one skilled in the art to make and use the invention.

Regarding claim 10, the specification does not disclose said control disc comprising means for “directly” locking and releasing a movable element. The control disc 28 locks and releases the movable element 52A, 52B through levers 38 and 40. The structure and operation of how the control disc directly locks and releases is not described in the specification to be enabling to one skilled in the art to make and use the invention.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 is indefinite because it is unclear as to how the motor further comprises a mechanical worm means.

Claim 20 is indefinite because of the recitation "so as to engage stop element" in line 5 of claim 20. It is unclear if the second stop element engages the first stop element or another, i.e., third stop element.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1,3,4,6-8,13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Becker et al.

Becker et al. discloses in figure 1, an apparatus comprising an actuating device having a motor 26 and a worm gear 30; a wheel having a gear ring 34, a hub 36, and an elastic intermediate layer 44; a mechanical element 20 connected to said wheel; and a movable element 22 connected to said mechanical element.

Claims 1,2, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Becker et al.

Becker et al. discloses in figure 1, an apparatus comprising an actuating device 18 directly driving a wheel; said wheel having a gear ring 34, a hub 36, and an elastic intermediate

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layer 44; a mechanical element 20 connected to said wheel; and a movable element 22 connected to said mechanical element.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1,3,4,6-9,11,12,13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 198 39 707 A1 in view of Becker et al.

DE 198 39 707 A1 discloses in figures 1 and 2, an apparatus comprising, an actuating device having a motor and a worm gear; a control disc 4 having a plurality of tracks located on opposite sides of the control disc; two arms 101,12 having extensions 11 extending into said plurality of tracks effecting a locking and releasing of a movable element (distal ends of said levers located away from ends thereof having the extensions). DE 198 39 707 A1 does not disclose a wheel comprising a gear ring, a hub, and an elastic intermediate member located between said actuating device and said control disc. However, Becker et al. teaches in figure 1, an apparatus comprising, inter alia, an actuator connected to a wheel having a gear ring 34, a hub 36, and an elastic intermediate layer 44 connected to a mechanical element 20 which is connected to a movable element 22. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of DE 198 39 707 A1 in view of the teachings of Becker et al. to provide a wheel having an elastic intermediate member so as to provide a certain amount of elasticity to guard against the shock of a reverse

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acting force of any kind and to suppress the propagation of vibrations. See lines 36-41 of column 3 of Becker et al.

11. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 198 39 707 A1 in view of Becker et al. as applied to claims 1,3,4,6-9,11,12,13-19 and further in view of Ginsberg. The reference combination set forth above discloses the basic apparatus but does not disclose first and second stop members. However, Ginsberg teaches in figure 1 an apparatus comprising, inter alia, a control disc 40 having a first stop member 43 which engages a second stop member 38a,38b so as to halt the movement of said control disc. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of DE 198 39 707 A1 in view of the teachings of Ginsberg to provide first and second stop members so as to limit the amount of rotation and provide halt positions of said control disc so as to provide rest positions when said levers are actuated to desired positions; avoiding the continued locking and releasing with uninterrupted drive from said actuating device.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art regarding actuating devices in general:

US Patent No. 6,445,081 to Franz

US Patent No. 5,697,237 to Dilger et al.

US Patent No. 6,439,624 to Spurr

US Patent No. 5,649,726 to Rogers, Jr. et al.

US Patent No. 6,145,354 to Kondo et al.

US Patent No. 4,899,608 to Knappe et al.

US Patent No. 6,073,503 to Matsuno et al.

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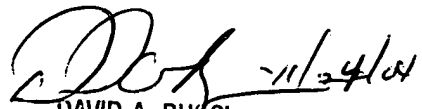
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P McAnulty whose telephone number is 703.308.8684.

The examiner can normally be reached on Monday-Friday (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tpm 


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